

***United States Court of Appeals
for the Second Circuit***



APPENDIX

77-1277

United States Court of Appeals

FOR THE SECOND CIRCUIT

Docket No. 77-1277

UNITED STATES OF AMERICA,

Appellee,

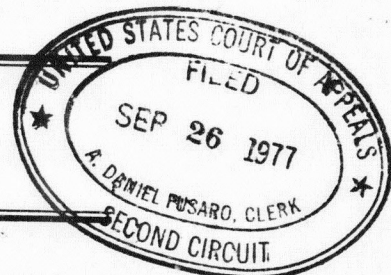
—v.—

BERNARD BERMAN,

Defendant-Appellant.

ON APPEAL FROM THE UNITED STATES DISTRICT COURT FOR
THE EASTERN DISTRICT OF NEW YORK (BRAMWELL, J.)

APPENDIX



HAROLD A. BOGIN
Attorney for Appellant, Bernard Berman
3000 Marcus Avenue
Lake Success, New York 11040
Telephone (516) 328-0074

PAGINATION AS IN ORIGINAL COPY

TABLE OF CONTENTS

	PAGE
Docket Entries	A-1
Indictment	A-3
Judgment and Commitment	A-6
Notice of Appeal	A-7
Order Pursuant Rule 46, FRCP	A-8
Transcripts of District Court Proceedings:	
October 29th, 1976 (minutes of plea, Ber- man)	A-10
November 5th, 1976 (minutes of plea, Atlas, Jacobs, Friedman)	A-20
May 27th, 1977 (minutes of sentence, Ber- man, Atlas, Jacobs, Friedman)	A-51

A 1

76 CR 553

BARRY JACOBS

8 26

76 558

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0721

207

X

ORIGINAL COUNTS

3

21:841(a)(1), 952 did combine, conspire,
 (a), 960(a)(1), 966 confederate, & agree to import
 (b), 846, 943 & T-18:2 into the U.S. from other places
 717 pounds of marijuana in
 the form of hashish.

CLOSED

U.S. MAC CASE NO 76 M 51

ARR ☒ Denied ☒ Ser ☒ PSA ☒ Peris Resog
 \$ 10,000
☐ Date ☐ 10% Deposit ☐ Surety Bond
☐ Bail Not Made ☐ Collateral ☐ 3rd ☐ Other
☐ Status Changed (See Docket) ☐ Prty Cust

KEY DATES & INTERVALS

ARRREST	INDICTMENT	ARRAIGNMENT	TRIAL	SENTENCE
8/26/76	9/1/76	11-5-76	11/5/76	5/27/77
3-4-76				

MAGISTRATE		INITIAL/NO	OUTCOME:
Search Warrant	Issued	DATE	DISMISSED
Return	3-4-76	INITIAL APPEARANCE DATE	Held for GJ or other proceeding in this district
Bond	VAC/000A	PRELIMINARY EXAMINATION OR REMOVAL HEARING	Held for GJ or other proceeding in district below
Served		DATE SCHEDULED	
Arrest Warrant Issued		DATE HEARD	
COMPLAINT	3-4-76	TYPE NUMBER	
OFFENSE	Importation of Hashish. T-21 USC Section 952(a).		

U.S. Attorney in Charge

G.Scotti

ATTORNEYS

Frank Lopez, Esq.

31 Smith Street

B'klyn, NY 11201

TR- 5-3290

PHILIP ATLAS 1; BERNARD BERMAN 2

DATE	PROCEEDINGS	EXCLUDABLE DELAY
3-4-76	Deft. arraigned.	(a) (b) (c)
8/26/76	Before DOOLING, J. - Indictment filed.	
9/1/76	Before PRATT, J. - Case called. Deft & Counsel present. Deft arraigned and enters a plea of not guilty. Bail contd. Adjd without date before Judge Bramwell.	
11-5-76	Before Bramwell, J.- Case Called. Deft. & Counsel present. Deft. withdraws his plea of not guilty and on his own behalf enters a plea of guilty to count (1). Court finds that there is a factual basis for the plea. Bail continued. Sentence adjd. without date.	
1-14-77	Before Bramwell, J.- Sentence adjd. to 2-25-77 at 10:00 A.M. on consent.	
2-25-77	Before BRAMWELL, J. - Case called. Sentence adj'd to 4-29-77 at 10 A.M. on consent.	
5/27/77	Before Bramwell, J.-case called-deft & counsel present deft sentenced to impr for a period of 2 yrs + a Special Parole term of 5 yrs on count 1. On motion of AUSA Thompson counts 2 & 3 are dismissed-motion granted-stay of over.....	

5/13/77	B. Bramwell, J-case called-sentence adjd to 5/27/77 on consent.jlj		
	execution of sentence to 6/17/77 is granted.jlj		
5.27.77	Judgment and Comitment filed. Certified Copies to Marshal and Probation.		SP
6.03.77	Notice of Appeal filed.		SP
6.03.77	Certified Copy of Docket entries and Duplicate copy of Notice of Appeal mailed to the Court of Appeals.		SP
6-7-77	Letter filed recvd from Chambers consenting to a stay of surrender of the deft until June 30, 1977, signed by Judge Bramwell addressed to US Atty Thompson.		
6/28/77	By Bramwell, J Memo dtd 6/28/77 filed re that the deft be permitted to surrender voluntarily on 6/30/77.jlj		
6.30.77	Notice of Motion for a Reduction and-or modification of sentence pursuant to Rule 35 filed and forwarded to Chambers.		SP
7/8/77	Before Bramwell, J-case called motion adjd to 7/15/77 on consent.jlj		
7-12-77	Judgment & commitment ret'd and filed - deft del. to Federal Prison Camp, Maxwell AFB, Alabama.		
7/15/77	Before Bramwell, J-case called-motion for reduction of sentence-motion argued-decision reserved.jlj		
7.15.77	Before Bramwell, J.- Case Called. It is ordered and adjudged that the defendant is hereby committed to the custody of the Attorney General or his duly authorized representative for imprisonment for a period of eighteen (18) months under Title 18, United States Code, Section 4205(b)(2) plus a Special Parole TERM of five (5) years.		SP
7.15.77	By Bramwell, J.- Order for A reduction of Sentence filed. Certified Copies to Marshal and Probation.		SP
7-25-77	Scheduling order filed received from the court of appeals that the record be docketed on or before 8-29-77.		
7-28-77	Order for reduction of sentence ret'd and filed - Copy sent to Maxwell Air Force Base 7-27-77.		

FINE AND RESTITUTION PAYMENTS

DATE	RECEIPT NUMBER	C.D. NUMBER	DATE	RECEIPT NUMBER	C.D. NUMBER

RJD:ET:srt
F. 761,301

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

----- x
UNITED STATES OF AMERICA :

- against - :

PHILIP ATLAS, BERNARD BERMAN :
and BARRY JACOBS, :

Defendants. :
----- x

INDICTMENT

Criminal No. 76 CR 558
(T. 21, U.S.C. §§841(a)(1),
952(a), 960(a)(1), 960(b),
846, 963, and T. 18, U.S.C.
§2).

THE GRAND JURY CHARGES:

COUNT ONE

On or about and between February 1, 1976 and March 3, 1976, both dates being approximate and inclusive, within the Eastern District of New York and elsewhere, the defendants PHILIP ATLAS, BERNARD BERMAN and BARRY JACOBS and others known and unknown to the Grand Jury, knowingly and intentionally did combine, conspire, confederate and agree together and with each other to violate Sections 841(a)(1), 952(a), 960(a)(1) and 960(b)(2) of Title 21, United States Code.

1. It was part of said conspiracy that the defendants knowingly and intentionally would import into the United States, from places outside thereof, a quantity of marijuana in the form of hashish, a Schedule I controlled substance.

2. It was further part of said conspiracy that the defendants knowingly and intentionally would possess with intent to distribute and distribute a quantity of marijuana in the form of hashish, a Schedule I controlled substance.

In furtherance of said conspiracy and to effect the objects thereof, the following overt acts were committed in the Eastern District of New York and elsewhere:

OVERT ACTS

1. On March 3, 1976 defendants PHILIP ATLAS and BARRY JACOBS did travel to John F. Kennedy Airport in the Eastern District of New York to the vicinity of Air India

cargo terminal to observe the release of twenty-eight (28) crates containing hashish from United States Customs into the United States.

2. On or about March 3, 1976 at approximately 5:00 P.M. the defendant BERNARD BERMAN did facilitate the entry into the United States of twenty-eight (28) crates containing a total of approximately seven hundred and seventeen (717) pounds of hashish while falsely claiming the crates to contain only assorted Indian handicrafts. The defendant BERNARD BERMAN did facilitate this release by payment to Air India of \$3,846.35 to cover the cost of shipping and duty charges on the crates.

(Title 21, United States Code, Sections 846 and 943).

COUNT TWO

On or about the 3rd day of March, 1976 within the Eastern District of New York, the defendants PHILIP ATLAS, BERNARD BERMAN and BARRY JACOBS, did knowingly and intentionally import into the United States from India approximately seven hundred and seventeen (717) pounds of marijuana, in the form of hashish, a Schedule I controlled substance. (Title 21, United States Code, Sections 952(a) and 960(a)(1) and Title 18, United States Code, Section 2).

COUNT THREE

On or about the 3rd day of March, 1976 within the Eastern District of New York, the defendants PHILIP ATLAS, BERNARD BERMAN and BARRY JACOBS, did knowingly and intentionally possess with intent to distribute approximately seven

hundred and seventeen (717) pounds of marijuana, in the form of hashish, a Schedule I controlled substance.

(Title 21, United States Code, Section 841(a)(1), and Title 18, United States Code, Section 2).

A TRUE BILL.

Foreman.

David G. Trager/SRK
DAVID G. TRAGER
United States Attorney
Eastern District of New York.

A

6

United States of America vs.

United States District Court

EASTERN DISTRICT OF NEW YORK

DEFENDANT

Bernard Berman

DOCKET NO. 76 CR 558

JUDGMENT AND PROBATION/COMMITMENT ORDER

In the presence of the attorney for the government
the defendant appeared in person on this date

MONTH DAY YEAR

MAY 27th, 1977

COUNSEL

☐ WITHOUT COUNSEL

However the court advised defendant of right to counsel and asked whether defendant desired to have counsel appointed by the court and the defendant thereupon waived assistance of counsel.

☒ WITH COUNSEL

HAROLD BOTGIN, ESQ.

(Name of counsel)

PLEA

☒ GUILTY, and the court being satisfied that there is a factual basis for the plea, in count 1 ☐ NOT GUILTY, ☐ NOT GUILTYThere being a finding/verdict of ☐ NOT GUILTY. Defendant is discharged. ☒ GUILTY.FINDING &
JUDGMENT

Defendant has been convicted as charged of the offense(s) of violating Title 18, U.S.C. Section 846 and 943 in that on or about and between Feb. 1, 1976, and March 3, 1976, the defendant with others did knowingly and intentionally combine, conspire, confederate, and agree to import and distribute quantities of marijuana in the form of hashish. The defendant did facilitate the entry into the United States of 28 crates containing a total of 717 pounds of hashish while falsely claiming the crates to contain only assorted Indian handicrafts. The defendant did facilitate this release by payment to Air India of \$3,846.35 to cover the cost of shipping and duty charges on the crates.

The court asked whether defendant had anything to say why judgment should not be pronounced. Because no sufficient cause to the contrary was shown, or appeared to the court, the court adjudged the defendant guilty as charged and convicted and ordered that: The defendant is hereby committed to the custody of the Attorney General or his authorized representative for imprisonment for a period of three (3) years plus a Special Parole Term of five (5) years and to pay a fine of Ten Thousand Dollars (\$10,000.00) on Count one (1). On motion of the Assistant United States Attorney, Edward Thompson, Counts two (2) and three (3) are dismissed. Stay execution of sentence to June 30th 1977 at 12:00 noon is granted.

SENTENCE
OR
PROBATION
ORDERSPECIAL
CONDITIONS
OF
PROBATIONADDITIONAL
CONDITIONS
OF
PROBATIONCOMMITMENT
RECOMMEN-
DATION

FILED

IN CLERK'S OFFICE

U. S. DISTRICT COURT E.D. N.Y.

★ MAY 27 1977 ★

TIME A.M. _____
P.M. _____

In addition to the special conditions of probation imposed above, it is hereby ordered that the general conditions of probation set out on the reverse side of this judgment be imposed. The Court may change the conditions of probation, reduce or extend the period of probation, and at any time during the probation period or within a maximum probation period of five years permitted by law, may issue a warrant and revoke probation for a violation occurring during the probation period.

The court orders commitment to the custody of the Attorney General and recommends,

It is ordered that the Clerk deliver a certified copy of this judgment and commitment to the U.S. Marshal or other qualified officer.

SIGNED BY

U.S. District Judge

U.S. Magistrate

Henry Bramwell

5/27/77

A 7

UNITED STATES DISTRICT COURT

IN CLERK'S OFFICE
U. S. DISTRICT COURT E.D. N.Y.

★ JUN - 3 1977 ★

UNITED STATES OF AMERICA,
Plaintiff-Appellee,

Docket Number

76 Cr. 58 (HB)

v.

BERNARD BERMAN,

HON. HENRY BRAMWELL
(District Court Judge)

Defendant - Appellant.

NOTICE OF APPEAL

Notice is hereby given that BERNARD BERMAN

appeals to

the United States Court of Appeals for the Second Circuit from the XX Judgment order other(specify) _____ entered in this action on May 27th, 1977

(Date)

HAROLD A. BOGIN, Esq.
(Counsel for Appellant)

Address

3000 Marcus Avenue
Lake Success, N. Y. 11040
(516) 328-0074Date June 3rd, 1977To: Honorable David G. Trager
United States Attorney
Eastern District of New York
225 Cadman Plaza East
Brooklyn, N. Y. 11201

Phone Number _____

ADD ADDITIONAL PAGE IF NECESSARY

(TO BE COMPLETED BY ATTORNEY)

TRANSCRIPT INFORMATION - FORM B

▶ QUESTIONNAIRE

☒ I am ordering a transcript☐ I am not ordering a transcript

Reason:

☐ Daily copy is available☐ U.S. Attorney has placed order☐ Other. Attach explanation

▶ TRANSCRIPT ORDER

Prepare transcript of

☒ Pre-trial proceedings (November 5th, 1976)☐ Trial☒ Sentence (May 27th, 1977)☐ Post-trial proceedingsDESCRIPTION OF PROCEEDINGS
FOR WHICH TRANSCRIPT IS
REQUIRED (INCLUDE DATE).

*Please refer to Notice of Appeal on Philip Atlas requesting transcript.

The ATTORNEY certifies that he will make satisfactory arrangements with the court reporter for payment of the cost of the transcript. (FRAP 10(b)) ▶ Method of payment ☒ Funds ☐ CJA Form 21

ATTORNEY'S signature

Harold A. Bogin Esq.

DATE

June 3rd, 1977

▶ COURT REPORTER ACKNOWLEDGEMENT

To be completed by Court Reporter and
forwarded to Court of Appeals.

Date order received

Estimated completion date

Estimated number
of pages.

Date _____

Signature _____

(Court Reporter)

ORIGINAL

②

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

----- X
UNITED STATES OF AMERICA,

- against -

PHILIP ATLAS, BERNARD BERMAN
and BARRY JACOBS,

Defendants.

----- X

Docket #76 CR 558 HB

ORDER PURSUANT TO RULE 46

The defendant, BERNARD BERMAN, having moved this Court on the 17th day of June, 1977, for an Order pursuant to Rule 46 of the Rules of Criminal Procedure, to admit the said defendant to bail pending his appeal to the Court of Appeals, and said motion having come on to be heard before this Court, and HAROLD A. BOGIN, ESQ., appearing in behalf of the defendant-appellant and the United States Attorney for the Eastern District of New York having appeared in opposition thereto, and upon reading the affidavit of HAROLD A. BOGIN, ESQ., sworn to the 9th day of June, 1977, the Notice of Appeal dated June 3, 1977, and due deliberation having been had thereon, it is

ORDERED, that the defendant-appellant's motion hereby is granted and the defendant-appellant is admitted to bail during the pendency of his said appeal and until further order of this Court; and it is further,

ORDERED, that the personal bond heretofore supplied by said

defendant-appellant shall be continued.

Dated: June 22, 1977
Lake Success, New York

Bl Henry B. ...

HENRY B. ...

COURT JUDGE

6/27/77

2:5 DT

1
2 UNITED STATES DISTRICT COURT
3 EASTERN DISTRICT OF NEW YORK

FILED
IN CLERK'S OFFICE
U. S. DISTRICT COURT E.D. N.Y.

★ NOV 8 1976 ★

TIME A.M. _____
P.M. _____

4 -----X
5 UNITED STATES OF AMERICA, :

6 -against- :

7 BERNARD BERMAN, :

8 Defendant. :

76-CR-558

9 -----X

10
11 United States Courthouse
12 Brooklyn, New York

13 October 29, 1976
14 10:00 o'clock A.M.

15 B e f o r e :

16 HONORABLE HENRY BRAMWELL, U.S.D.J.

17
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20
21 MICHAEL PICOZZI
22 OFFICIAL COURT REPORTER

23 I hereby certify that the foregoing is
24 a true and accurate transcript of the
25 stenographic notes in this proceeding.

Michael Picozzi
Official Court Reporter
U. S. District Court

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VERIFICATION:

DAVID G. TRAGER, ESQ.
United States Attorney
for the Eastern District of New York

BY: EDWARD THOMPSON, JR., ESQ.
Assistant U.S. Attorney

HAROLD BOGIN, ESQ.
Attorney for Defendant

1
2 THE CLERK: For pleading, United States v.
3 Bernard Berman.

4 MR. BOGIN: Harold Bogin, for the defendant.
5 Good morning, your Honor.

6 THE COURT: Yes, Mr. Bogin?

7 MR. BOGIN: If your Honor pleases, at this time
8 the defendant Bernard Berman wishes to, with your
9 Honor's permission, withdraw his plea of not guilty and
10 plead guilty to the first count of the indictment in
11 satisfaction of all three counts.

12 THE COURT: All right.

13 What is your full name?

14 THE DEFENDANT: Bernard Berman.

15 THE COURT: How old are you, Mr. Berman?

16 THE DEFENDANT: 56.

17 THE COURT: Before accepting the plea of guilty
18 I must advise you as to your constitutional rights, the
19 nature of the charge against you, and the consequences
20 of your plea.

21 You have a constitutional right to a speedy and
22 public trial by jury with the assistance of counsel.

23 You have a constitutional right to be confronted
24 and cross-examine the witnesses against you.

25 You also have the right to compulsory process to

bring in witnesses on your behalf.

You have the right not to incriminate yourself by being compelled to testify at the trial.

You have the right to plead not guilty or persist in your plea of not guilty in which event the Government will be required to prove your guilt beyond a reasonable doubt. In the event the Government fails, the jury would have the obligation of finding you not guilty.

Do you understand that the Court may ask you questions about the offense to which you offer to plead and if the answers to those questions are false, other measures may be taken. Do you understand that?

THE DEFENDANT: Yes, I do.

THE COURT: If the plea of guilty is accepted, there will be no trial, you will be surrendering and waiving the right to a trial and all the constitutional rights I have mentioned to you.

Do you understand that?

MR. BERMAN: Yes, I do.

THE COURT: Now, I will read the count.

Count 1 of the indictment reads as follows:

"Count 1, on or about and between February 1, 1976 and March 3, 1976, both dates being approximate and inclusive, within the Eastern District of New York

1 and elsewhere, the defendants Philip Atlas, Bernard
2 Barman and Barry Jacobs and others known and unknown
3 to the grand jury, knowingly and intentionally did
4 combine, conspire, confederate and agree together and
5 with each other to violate Section 841(a)(1),
6 952(a), 960(a)(1) and 960(b)(2) of Title 21, United
7 States Code.

8 "1. It was part of said conspiracy that the
9 defendants knowingly and intentionally would import
10 into the United States, from places outside thereof
11 a quantity of marijuana in the form of hashish, a
12 Schedule 1 controlled substance.

13 "2. It was further part of said conspiracy
14 that the defendants knowingly and intentionally would
15 possess with intent to distribute and distribute a
16 quantity of marijuana in the form of hashish, a
17 Schedule 1 controlled substance.

18 "In furtherance of said conspiracy and to effect
19 the objects thereof, the following overt acts were
20 committed in the Eastern District of New York and
21 elsewhere:

22 "Overt Acts:

23 "1. On March 3, 1976 defendants Philip Atlas
24 and Barry Jacobs did travel to John F. Kennedy Airport
25

1 in the Eastern District of New York to the vicinity of
2 Air India cargo terminal to observe the release of
3 twenty-eight crates containing hashish from United
4 States Customs into the United States.

5 "2. On or about March 3, 1976 at approximately
6 5:00 p.m. the defendant Bernard Berman did facilitate
7 the entry into the United States of twenty-eight crates
8 containing a total of approximately 717 pounds of
9 hashish while falsely claiming the crates to contain
10 only assorted Indian handicrafts. The defendant
11 Bernard Berman did facilitate this release by payment to
12 Air India of \$3,846.35 to cover the cost of shipping
13 and duty charges on the crates."

14 All in violation of Title 21, United States Code,
15 Sections 846 and 943.

16 MR. THOMPSON: If I may --

17 THE COURT: 943 was amended to 963 on
18 September 1, 1976.

19 MR. THOMPSON: Judge, the first overt act was
20 March 3rd. I believe I heard May 3rd.

21 THE COURT: March 3rd.

22 Mr. Berman, in connection with count 1, you were
23 charged with a conspiracy and the conspiracy requires
24 an agreement between two or more individuals to commit
25 an illegal or unlawful act and the conspiracy requires

1 that these individuals do some overt act in connection
2 with this conspiracy in order to carry out the
3 purposes of the conspiracy. The conspiracy agreements
4 need not be written or in any form on any paper or
5 anything of that nature, and may be just a spoken or
6 oral agreement between these individuals.

7 Now, as to yourself in connection with this
8 charge, was there a conspiracy between you and others
9 in connection with this proceeding?

10 THE DEFENDANT: Yes, there was.

11 THE COURT: Were your actions based on this
12 conspiracy and arrangement between yourself and the
13 others?

14 THE DEFENDANT: Yes.

15 THE COURT: Did you do what you did as a result
16 of this conspiracy and the arrangement that you made
17 with these other people?

18 THE DEFENDANT: Yes.

19 THE COURT: What I wish you to do is tell the
20 Court in your own words what it is that you did that
21 brings this charge before the Court.

22 THE DEFENDANT: Well, we discussed bringing in
23 marijuana and I went down and cleared it for them.

24 THE COURT: You discussed it with others who are
25

involved?

THE DEFENDANT: Yes, I did.

THE COURT: Where did you go?

THE DEFENDANT: Air India.

THE COURT: What did you do at Air India?

THE DEFENDANT: They asked me for payment for the freight and I paid the freight and supposedly cleared the shipment.

THE COURT: What was in the freight?

THE DEFENDANT: Marijuana.

THE COURT: When did you do this?

THE DEFENDANT: I don't recall the exact date.

THE COURT: Approximately..

THE DEFENDANT: March 3rd.

THE COURT: Of what year?

THE DEFENDANT: 1976.

THE COURT: Did you do what you are charged with in count 1 of the indictment?

THE DEFENDANT: Yes, I did, your Honor.

THE COURT: Have any promises of any kind, including any promises or suggestions as to what sentence may be imposed, been made by your lawyer, the Court, or anyone else to induce a plea of guilty?

THE DEFENDANT: No, sir.

THE COURT: Have any promises been made?

1 MR. THOMPSON: Yes. The defendant has agreed
2 to enter a plea of guilty to count 1 and to provide
3 full cooperation. He has been debriefed by DEA agents
4 and will testify before the grand jury and the trial,
5 if requested. Nothing said by the defendant during the
6 debriefing would be used against him except in the
7 event of perjured testimony.

8 The Government in return will advise the Court
9 prior to imposition of sentence of the full nature and
10 extent of the defendant's cooperation and at time of
11 sentence, upon imposition, will move to dismiss the
12 remaining counts of the indictment.

13 THE COURT: Thank you, Mr. Thompson.

14 Mr. Bogin, any other promises?

15 MR. BOGIN: No, that is the agreement between
16 the Government and myself in its full terms.

17 THE COURT: Mr. Berman, have you been threatened
18 or coerced into pleading guilty?

19 THE DEFENDANT: No, your Honor.

20 THE COURT: Do you know that the maximum
21 sentence which may be imposed is five years and/or
22 \$15,000 fine plus a Special Parole Term of not less
23 than two years?

24 THE DEFENDANT: Yes.

25 THE COURT: Has your lawyer made any prediction

1 or express any opinion of what sentence will be
2 imposed?

3 THE DEFENDANT: No, your Honor.

4 THE COURT: Have you discussed your plea of
5 guilty fully with your lawyer?

6 THE DEFENDANT: Yes.

7 THE COURT: Do you understand you will have the
8 assistance of counsel at the time sentence is imposed?

9 THE DEFENDANT: Yes.

10 THE COURT: Having been advised as to your
11 constitutional rights, the nature of the charge
12 against you and the consequences of your plea, how do
13 you plead to count 1 of the indictment?

14 THE DEFENDANT : Guilty, your Honor.

15 THE COURT: The Court finds that there is a
16 factual basis for the plea and accepts the plea of
17 guilty to count 1 of the indictment.

18 Pre-sentence report is ordered and sentencing to
19 be at such time as the pre-sentence report is before
20 the Court.

21 Anything on bail?

22 MR. THOMPSON: The Government would agree to
23 continue the \$10,000 PRB.

24 THE COURT: Bail continued.

25 MR. BOGIN: Thank you.

MR. THOMPSON: Thank you, Judge.

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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

-----x
UNITED STATES OF AMERICA :
against :
PHILIP ATLAS and : 76 CR 558
BARRY JACOBS, :
Defendants :
-----x

United States Courthouse
Brooklyn, New York

November 5, 1976
5:00 p.m.

B e f o r e:

HONORABLE HENRY BRAMWELL,

U. S. D. J.

SHELDON SILVERMAN
Official Court Reporter

1

2

Appearances:

3

4

DAVID G. TRAGER, Esq.
United States Attorney for the
Eastern District of New York

5

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By: EDWARD THOMPSON, JR., Esq.
Assistant U.S. Attorney

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FRANK A. LOPEZ, Esq.
Attorney for Defendant Atlas

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LEONARD FUSFIELD, Esq.
Attorney for Defendant Jacobs

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THE CLERK: For pleading, Philip Atlas

2

and Barry Jacobs.

3

THE COURT: Your name is?

4

DEFENDANT JACOBS: Barry Jacobs.

5

DEFENDANT ATLAS: Philip Atlas.

6

THE COURT: Are these your attorneys who

7

are with you?

8

DEFENDANT ATLAS: Yes.

9

DEFENDANT JACOBS: Yes.

10

THE COURT: Do the defendants waive the

11

reading of the indictment?

12

DEFENDANT ATLAS: Yes, we do, sir.

13

DEFENDANT JACOBS: Yes.

14

THE COURT: How do they plead?

15

MR. LOPEZ: The defendants plead, for the

16

first count in the indictment, that would be Count

17

1, they plead guilty to that indictment.

18

THE COURT: They're going to plead. That

19

is the plea?

20

MR. THOMPSON: Yes.

21

THE COURT: I will take each separately. The

22

other one sit down.

23

Your name again is?

24

DEFENDANT ATLAS: Philip Atlas.

25

THE COURT: How old are you?

1 DEFENDANT ATLAS: Twenty-nine.

2 THE COURT: Mr. Lopez, he is pleading
3 guilty to Count 1; is that correct?

4 MR. LOPEZ: That's correct, your Honor.

5 THE COURT: Mr. Atlas, before accepting the
6 plea of guilty, I must advise you of your constitu-
7 tional rights, the nature of the charge against
8 you, and the consequences of your plea.

9 You have a constitutional right to a speedy
10 and public trial by jury with the assistance of
11 counsel.

12 You have the right to be confronted and to
13 cross-examine the witnesses against you.

14 You have the right to compulsory process to
15 bring witnesses on your behalf.

16 You have the right not to incriminate yourself
17 by being compelled to testify at the trial.

18 You have the right to plead not guilty or
19 persist in the plea of not guilty, in which event
20 the government will be required to prove your guilt
21 beyond a reasonable doubt, and in the event the
22 government fails, the jury would have the obliga-
23 tion of finding you not guilty.

24 Do you understand that the Court may ask you
25 questions about the offense to which you offer the

1 plea? Do you understand this?

2 DEFENDANT ATLAS: Yes, I do.

3 THE COURT: If the plea of guilty is accepted,
4 there will be no trial, so that you will be sur-
5 rendering and waiving the right to a trial and the
6 right to the constitutional rights I have just told
7 you about. Do you understand that?

8 DEFENDANT ATLAS: Yes, I do.

9 THE COURT: I'll read Count 1 of the indict-
10 ment to you:

11 "On or about and between February 1, 1976,
12 and March 3, 1976, both dates being approximate and
13 inclusive, within the Eastern District of New York
14 and elsewhere, the defendant Philip Atlas, Bernard
15 Berman, and Barry Jacobs and others known and
16 unknown to the grand jury, knowingly and inten-
17 tionally did combine, conspire, confederate and agree
18 together and with each other to violate Sections 8
19 841(a)(1), 952(a), 960(a)(1), and 960(b)(2) of
20 Title 21, United States Code.

21 "1. As part of said conspiracy the
22 defendants knowingly and intentionally would
23 import into the United States from places outside
24 thereof a quantity of marijuana in the form of
25 hashish, a Schedule 1 controlled substance;

1 "2. It was further part of said con-
2 spiracy that the defendants knowingly and inten-
3 tionally would possess with intent to distribute
4 and distribute a quantity of marijuana in the form
5 of hashish, a Schedule 1 controlled substance.

6 In furtherance of said conspiracy and to
7 effect the objects thereof, the following overt
8 acts were committed in the Eastern District of
9 New York and elsewhere:

10 "Overt Act 1. On March 3, 1976, defendants
11 Philip Atlas and Barry Jacobs; did travel to
12 Kennedy Airport in the Eastern District of New
13 York, to the vicinity of Air India cargo terminal,
14 to observe the release of 28 crates containing
15 hashish from United States Customs into the United
16 States.

17 "2. On or about March 3, 1976, at approxi-
18 mately 5 p.m., the defendant Bernard Berman did
19 facilitate the entry into the United States of 28
20 crates containing a total of approximately 717
21 pounds of hashish while falsely claiming the crates
22 to contain only assorted Indian handicrafts. The
23 defendant Bernard Berman did facilitate the release
24 by payment to Air India of \$3,846.35 to cover the
25 cost of shipping and duty charges on the crates,

1 this being in violation of Title 21, United
2 States Code, Sections 846 and 943."

3 MR. THOMPSON: That's 963. That indictment
4 was amended at the last appearance.

5 THE COURT: 963.

6 In connection with this particular count
7 of the indictment, this count alleges a conspiracy,
8 and a conspiracy is an arrangement or agreement
9 between two or more individuals. It does not have
10 to be in writing, and this agreement is for the
11 purpose of carrying out some unlawful arrangement
12 which the individuals have made, and in connection
13 with this particular crime it must be that one or
14 more overt acts will be carried out by one or more
15 of the conspirators for the purpose of effecting
16 the objects of this particular conspiracy. That
17 is what is required in the conspiracy.

18 What the Court asks you to state at this
19 time is what you did which brings this charge
20 before the court in Count 1. You tell that to the
21 Court.

22 DEFENDANT ATLAS: My act was to finance
23 the participation of the importation of the hashish
24 and to pick it up at the airport.

25 THE COURT: Which airport?

1 DEFENDANT ATLAS: Kennedy Airport.

2 THE COURT: When did you do this?

3 DEFENDANT ATLAS: This was done on March 3rd.

4 THE COURT: Of what year?

5 DEFENDANT ATLAS: 1976.

6 THE COURT: Was there an arrangement with
7 one or more individuals besides yourself to do this
8 act?

9 DEFENDANT ATLAS: Yes, there was.

10 THE COURT: Was the act done pursuant to
11 the arrangement?

12 DEFENDANT ATLAS: Yes, it was.

13 THE COURT: Your participation was pursuant
14 to that arrangement?

15 DEFENDANT ATLAS: Yes, it was.

16 THE COURT: Did you actually do what you are
17 charged with in Count 1 of the indictment?

18 DEFENDANT ATLAS: Yes.

19 THE COURT: Did you do it knowingly, inten-
20 tionally and willfully?

21 DEFENDANT ATLAS: Yes.

22 THE COURT: Have any promises of any kind,
23 including any promise or suggestion as to what
24 sentence may be imposed, been made to you by your
25 lawyer, the Court or anyone else to induce you to

1 plead guilty?

2 DEFENDANT ATLAS: No, sir.

3 MR. THOMPSON: If I may, there is a document,
4 a letter of agreement, which is the entirety of the
5 agreement in this case (handing to the Court).
6 There have been no promises with regard to sentence,
7 your Honor.

8 THE COURT: Have you gotten a copy of this?
9 Mr. Lopez signed it.

10 MR. LOPEZ: I have a copy and both defendants
11 have also signed it.

12 THE COURT: There is no agreement as regards
13 sentence.

14 MR. LOPEZ: No, that's up to you.

15 THE COURT: Surely.

16 Mr. Atlas, have you been threatened or co-
17 erced in any way into pleading guilty?

18 DEFENDANT ATLAS: No, sir.

19 THE COURT: Do you know that the maximum
20 sentence which may be imposed is a prison term of
21 five years and/or \$15,000 fine, plus a special
22 parole term of not less than two years?

23 DEFENDANT ATLAS: Yes, sir.

24 THE COURT: A special parole term imposed
25 under this section or Section 845 of this Title may

1 be revoked if its terms and conditions are
2 violated. In such circumstance, the original term
3 of imprisonment shall be increased by the period
4 of the special parole term and the resulting new
5 term of imprisonment shall not be diminished by
6 the term which was spent on special parole.

7 A person whose special parole term has been
8 revoked may be required to serve all or part of the
9 remainder of the new term of imprisonment.

10 The special parole term provided for in this
11 Section 845 of this Title shall be in addition to
12 and not in lieu of any other parole provided for
13 by law. That is the sentence to which you may be
14 liable under these circumstances.

15 Mr. Atlas, has your lawyer made any pre-
16 diction or expressed any opinion as to what sentence
17 will be imposed?

18 DEFENDANT ATLAS: No, sir.

19 THE COURT: Have you discussed your plea of
20 guilty with your attorney?

21 DEFENDANT ATLAS: Yes, I have, sir.

22 THE COURT: Do you understand that you will
23 have the assistance of counsel at the time sentence
24 is imposed?

25 DEFENDANT ATLAS: Yes, sir.

1 THE COURT: Having been advised as to
2 your constitutional rights, the nature of the
3 charge against you, the consequences of your plea,
4 how do you plead to Count 1 of the indictment?

5 DEFENDANT ATLAS: Guilty.

6 THE COURT: The Court finds there's a factual
7 basis for the plea and accepts the plea of guilty
8 to Count 1 of the indictment. A presentence report
9 is ordered. Sentencing to be at such time as the
10 presentence report is before the Court.

11 Bail?

12 MR. THOMPSON: Continued.

13 THE COURT: Continued.

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15 THE CLERK: Barry Jacobs for pleading.

16 THE COURT: Mr. Fusfield?

17 MR. FUSFIELD: If your Honor pleases, the
18 defendant wishes to plead guilty to Count 1 of the
19 indictment numbered 76-CR-558, your Honor.

20 THE COURT: What is your full name, please?

21 DEFENDANT JACOBS: Barry Jacobs.

22 THE COURT: How old are you?

23 DEFENDANT JACOBS: Twenty-nine.

24 THE COURT: Before accepting the plea of
25 guilty, I must advise you as to your constitutional

1 rights, the nature of the charges against you,
2 and the consequences of your plea.

3 You have a constitutional right to a speedy
4 and public trial by jury with the assistance of
5 counsel.

6 You have a right to confront and cross-examine
7 the witnesses against you.

8 You have a right not to incriminate yourself
9 by being compelled to testify at the trial.

10 You have a right to plead not guilty or per-
11 sist in the plea of not guilty, in which event the
12 government will be required to prove your guilt
13 beyond a reasonable doubt, and in the event the
14 government fails, the jury would have the obligation
15 of finding you not guilty.

16 Do you understand that the government may
17 ask you questions about the offense to which you
18 offer to plead?

19 DEFENDANT JACOBS: Yes, your Honor.

20 THE COURT: If the plea of guilty is
21 accepted, there will be no trial. You will be
22 surrendering and waiving the right to a trial and
23 all the constitutional rights I have just stated
24 to you. Do you understand this?

25 DEFENDANT JACOBS: Yes, your Honor.

1 THE COURT: You were in court when I read
2 Count 1 of the indictment to Mr. Philip Atlas; is
3 that correct?

4 DEFENDANT JACOBS: That's correct.

5 THE COURT: Did you hear the Court when it
6 was read?

7 DEFENDANT JACOBS: Yes.

8 THE COURT: And your attorney was here at
9 the time, correct?

10 DEFENDANT JACOBS: Yes, sir.

11 MR. FUSFIELD: I will waive the reading of
12 the count, your Honor.

13 THE COURT: Thank you, Mr. Fusfield.

14 Did you understand it?

15 DEFENDANT JACOBS: Yes, your Honor.

16 THE COURT: Was there any part of it that
17 you didn't understand?

18 DEFENDANT JACOBS: No, your Honor.

19 THE COURT: I also explained to Mr. Atlas
20 that a conspiracy is an arrangement with one or more
21 individuals to accomplish some unlawful act or to
22 accomplish something which is illegal and not
23 according to law.

24 In connection with the conspiracy there must
25 be at least two individuals involved, and these

1 two individuals, pursuant to an arrangement
2 which they have made, must do some overt act to
3 carry out the purpose of the conspiracy.

4 The Court would first like you to tell the
5 Court in your own words what it is that you did that
6 brings the charge before the court.

7 DEFENDANT JACOBS: I was an investor in the
8 deal.

9 THE COURT: What was the deal?

10 DEFENDANT JACOBS: To importate hash.

11 THE COURT: Hashish?

12 DEFENDANT JACOBS: Hashish.

13 THE COURT: Which is a narcotic drug?

14 DEFENDANT JACOBS: Yes, your Honor. On
15 March 3rd, your Honor.

16 THE COURT: March 3rd, what year?

17 DEFENDANT JACOBS: 1976.

18 THE COURT: Where was this done at?

19 DEFENDANT JACOBS: At JFK.

20 THE COURT: Was there an arrangement between
21 yourself and someone else to do this?

22 DEFENDANT JACOBS: Yes, your Honor.

23 THE COURT: Pursuant to this arrangement did
24 you do these acts that you have just stated?

25 DEFENDANT JACOBS: Yes, your Honor.

1 THE COURT: You did those acts as a con-
2 sequence of the arrangement that was made?

3 DEFENDANT JACOBS: Yes, your Honor.

4 THE COURT: Did you do what you are charged
5 with in Count 1 of the indictment?

6 DEFENDANT JACOBS: Yes, your Honor.

7 THE COURT: Have any promises of any kind,
8 including any promise or suggestion or suggestions
9 as to what sentence may be imposed, been made to
10 you by your lawyer, the Court, or anyone else to
11 induce a plea of guilt?

12 DEFENDANT JACOBS: No.

13 MR. THOMPSON: Your Honor, if I may, this
14 same letter.

15 THE COURT: I have seen the letter.

16 MR. THOMPSON: It applies in this instance.
17 This is the agreement in full.

18 THE COURT: That's the same letter that was
19 signed by Mr. Fusfield.

20 MR. FUSFIELD: That's correct, your Honor.

21 MR. THOMPSON: And the defendant.

22 THE COURT: And the defendant as well.

23 MR. FUSFIELD: And the defendant as well.

24 THE COURT: There's no promise as to sentence.

25 MR. THOMPSON: No, your Honor.

1 THE COURT: Mr. Fusfield, anything else?

2 MR. FUSFIELD: Would the Court like to incor-
3 porate this into the file as a Court exhibit?

4 THE COURT: No, this could be attached or
5 made a part of the presentence report. I wouldn't
6 want to file it in the court file.

7 MR. FUSFIELD: Very good, your Honor.

8 THE COURT: Mr. Jacobs, have you been
9 threatened or coerced in any way into pleading
10 guilty?

11 DEFENDANT JACOBS: No, your Honor.

12 THE COURT: Do you know that the maximum
13 sentence which may be imposed is a prison term of
14 five years and/or a fine of \$15,000 plus a special
15 parole term of not less than two years; do you
16 understand this?

17 DEFENDANT JACOBS: Yes.

18 THE COURT: A special parole term imposed
19 under this section, Section 845 of this Title,
20 may be revoked if its terms and conditions are
21 violated. In such circumstance the original term
22 of imprisonment shall be increased by the period
23 of the special parole term and the resulting new
24 term of imprisonment shall not be diminished by
25 the term which was spent on special parole.

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A person whose special parole term has been revoked may be required to serve all or part of the remainder of the new term of imprisonment. A special parole term provided for in this section or Section 845 of this Title shall be in addition to and not in lieu of any other parole provided for by law.

Mr. Jacobs, has your lawyer made any prediction or expressed any opinion as to what sentence will be imposed?

DEFENDANT JACOBS: No, sir.

THE COURT: Have you discussed your plea of guilty fully with your lawyer?

DEFENDANT JACOBS: Yes, sir.

THE COURT: Do you understand that you will have the assistance of counsel at the time sentence is imposed?

DEFENDANT JACOBS: Yes, your Honor.

THE COURT: Having been advised as to your constitutional rights, the nature of the charge against you, the consequences of your plea, how do you plead to Count 1 of the indictment?

DEFENDANT JACOBS: Guilty.

THE COURT: The Court finds there is a

1 factual basis for the plea and accepts the plea
2 of guilty to Count 1 of the indictment.

3 Presentence report is ordered. Sentencing
4 to be at such time as the presentence report is
5 before the Court.

6 Bail continued?

7 MR. THOMPSON: Yes, your Honor.

8 THE COURT: Bail continued.

9 MR. FUSFIELD: Thank you, your Honor.

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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA :

against :

LAWRENCE FRIEDMAN : 76 CR 558

Defendant :

-----x

United States Courthouse
Brooklyn, New York

November 5, 1976
5:00 p.m.

B e f o r e :

HONORABLE HENRY BRAMWELL,

U. S. D. J.

SHELDON SILVERMAN
Official Court Reporter

1
2 **Appearances:**

3
4 DAVID G. TRAGER, Esq.
5 United States Attorney for the
6 Eastern District of New York
7 By: EDWARD THOMPSON, Esq.
8 Assistant U.S. Attorney

9 IRA ZEICHNER, Esq.
10 Attorney for Defendant
11 401 Broadway
12 New York, N.Y.
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THE CLERK: United States versus Lawrence Friedman.

THE COURT: This is on for waiver of indictment?

MR. ZEICHNER: Yes, your Honor.

THE COURT: Does the defendant intend to waive?

MR. ZEICHNER: Yes, your Honor.

THE COURT: What is your full name?

THE DEFENDANT: Lawrence Friedman.

THE COURT: How old are you?

THE DEFENDANT: Twenty-eight.

THE COURT: Were you in court when I discussed the prior indictment in which Philip Atlas and Barry Jacobs were involved, 76-CR-558?

THE DEFENDANT: Yes, your Honor.

THE COURT: Did you hear the reading of the charge against them?

THE DEFENDANT: Yes, your Honor.

THE COURT: Is this substantially the same charge?

THE DEFENDANT: Yes.

MR. THOMPSON: Your Honor, if I might point out, the defendant Berman is not listed as a co-conspirator in this information, and a third overt

1 act has been added, which includes this defendant's
2 participation.

3 THE COURT: This defendant's participation?

4 MR. THOMPSON: Yes, your Honor.

5 THE COURT: Have you gone over this informa-
6 tion with your attorney?

7 THE DEFENDANT: Yes, sir.

8 THE COURT: Do you understand what it's all
9 about?

10 THE DEFENDANT: Yes.

11 THE COURT: I have to inform you that unless
12 you waive indictment, you may not be charged with a
13 felony unless a grand jury finds by return of an
14 indictment there's probable cause to believe that
15 a crime has been committed and that you committed
16 the crime.

17 If you do not waive indictment, the govern-
18 ment may present the case to the grand jury and
19 request the grand jury to indict you. A grand jury
20 is composed of at least sixteen persons and not more
21 than twenty-three persons and at least twelve grand
22 jurors must find that there is probable cause to
23 believe that you committed the crime with which
24 you are charged before you may be indicted.

25 The grand jury might or might not indict

1 you for the same or for some other offense.

2 If you waive indictment by the grand jury,
3 the case will proceed against you on the United
4 State Attorney's information just as though you
5 had been indicted.

6 I ask you, Mr. Friedman, have you discussed
7 the matter of waiving your right to indictment by
8 the grand jury with your attorney?

9 THE DEFENDANT: Yes.

10 THE COURT: Do you understand your right to
11 indictment by a grand jury?

12 THE DEFENDANT: Yes.

13 THE COURT: Have any threats or promises been
14 made to induce you to waive indictment?

15 THE DEFENDANT: No.

16 THE COURT: Do you wish to waive your right
17 to indictment by a grand jury?

18 THE DEFENDANT: Yes.

19 THE COURT: I ask your attorney, Do you see
20 any reason why the defendant should not waive
21 indictment?

22 MR. ZEICHNER: No, your Honor.

23 THE COURT: Do you waive indictment, Mr.
24 Friedman?

25 THE DEFENDANT: Yes.

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THE COURT: Have him sign the waiver.

THE CLERK: Sign it over here (indicating)
(Defendant complies)

THE CLERK: Waiver has been signed and
witnessed, your Honor.

THE COURT: The Clerk is ordered to file
the information together with the waiver in this
particular case.

Counselor, what do you wish to do with this?

MR. ZEICHNER: At this time we waive the
reading of the information, and we would like to
plead guilty.

THE COURT: Mr. Lawrence Friedman, before
accepting the plea of guilty, I must advise you as
to your constitutional rights, the nature of the
charge against you, and the consequences of your
plea.

You have a constitutional right to a speedy
and public trial by jury with the assistance of counsel.

You have a right to confront and cross-examine
the witnesses against you.

You have a right to compulsory process to
bring in witnesses on your behalf.

You have a right not to incriminate yourself
by being compelled to testify at the trial.

1 You have a right to plead not guilty or
2 persist in the plea of not guilty, in which event
3 the government will be required to prove your guilt
4 beyond a reasonable doubt and in the event the
5 government fails, the jury would have the obligation
6 of finding you not guilty.

7 Do you understand that the Court may ask
8 you questions about the offense to which you offer
9 to plead?

10 THE DEFENDANT: Yes.

11 THE COURT: If the plea of guilty is accepted,
12 there will be no trial, so you will be surrendering
13 and waiving the right to a trial and all those
14 constitutional rights; do you understand that?

15 THE DEFENDANT: Yes, sir.

16 THE COURT: This information is lengthy,
17 but I feel I should read it to the defendant.

18 The information reads:

19 "On or about and between February 1, 1976,
20 and March 3, 1976, both dates being approximate
21 and inclusive, within the Eastern District of
22 New York and elsewhere, the defendant Lawrence
23 Friedman, together with Philip Atlas and Barry
24 Jacobs, herein named as co-conspirators, but not
25 as co-defendants, knowingly and intentionally did

1 combine, conspire, confederate and agree together
2 and with each other to violate Sections 841(a)(1),
3 952(a), 960(a)(1) and 960(b)(2), Title 21, United
4 States Code.

5 It was part of said conspiracy that the
6 defendant, together with Philip Atlas and Barry
7 Jacobs, herein named as co-conspirators but not as
8 co-defendants, knowingly and intentionally would
9 import into the United States from places outside
10 thereof, a quantity of marijuana in the form of
11 hashish, a Schedule 1 controlled substance.

12 "2. It is further part of said conspiracy
13 that the defendant, together with Philip Atlas
14 and Barry Jacobs, herein named as co-conspirators
15 but not as co-defendants, knowingly and intentionally
16 would possess with intent to distribute a quantity
17 of marijuana in the form of hashish, a Schedule 1
18 controlled substance.

19 In furtherance of said conspiracy and to
20 effect the objects thereof, the following overt
21 acts were committed in the Eastern District of
22 New York and elsewhere:

23 "Overt Act 1. On March 3, 1976, Philip
24 Atlas and Barry Jacobs did travel to Kennedy" --
25 I'll read Number 3 of the overt acts.

1 "On or about and during the month of
2 February, 1976, the defendant Lawrence Friedman
3 did provide the sum of \$5,000 as a proportionate
4 share of the purchase price of the said hashish,
5 all of this being in violation of Title 21, United
6 States Code, Section 846, and 963."

7 I have to advise you a conspiracy is an
8 arrangement which does not have to be in writing
9 between at least two individuals to accomplish some
10 unlawful act or to do something which is in viola-
11 tion of law, and in furtherance of the conspiracy
12 one or more of the participants do acts which are
13 for the purpose of carrying out the purpose of
14 the conspiracy.

15 I ask you to tell the Court in your own
16 words what you did in connection with this situation
17 that has you before the court.

18 THE DEFENDANT: I contributed \$5,000 towards
19 the purchase of hashish.

20 THE COURT: Where was this to be done?
21 Where was this purchase to be made?

22 THE DEFENDANT: In Bombay, India.

23 THE COURT: Was this hashish to be brought
24 to the United States?

25 THE DEFENDANT: Yes, sir.

1 THE COURT: What was the port of entry for
2 it in the United States?

3 THE DEFENDANT: Kennedy Airport.

4 THE COURT: Was this an arrangement between
5 yourself and someone else, more than--

6 THE DEFENDANT: Yes.

7 THE COURT: And pursuant to that arrangement,
8 were these acts done by yourself and others?

9 THE DEFENDANT: Yes.

10 THE COURT: Did you actually do what you are
11 charged with in this information?

12 THE DEFENDANT: Yes.

13 THE COURT: Have any promises of any kind
14 including any promises or suggestion as to what
15 sentence may be imposed been made to you by your
16 lawyer, the Court, or anyone else to induce you to
17 plead guilty?

18 MR. ZEICHNER: At this time there is a letter--

19 THE COURT: Yes, I have looked at the letter
20 and I would give it back to the United States
21 Attorney. There's no promise as to sentence.

22 MR. ZEICHNER: No, your Honor.

23 THE DEFENDANT: No.

24 THE COURT: No other promises?

25 THE DEFENDANT: No, sir.

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THE COURT: Any other promises?

MR. THOMPSON: No.

THE COURT: Have you been threatened or coerced in any way into pleading guilty?

THE DEFENDANT: No.

THE COURT: Do you know that the maximum sentence which may be imposed is a prison term of five years and/or \$15,000 fine plus a special parole term of not less than two years?

THE DEFENDANT: Yes.

THE COURT: A special parole term imposed under this section or Section 845 of this title may be revoked if its terms and conditions are violated. In such circumstances, the original term of imprisonment shall be increased by the period of the special parole term and the resulting new term of imprisonment shall not be diminished by the term which was spend on special parole.

A person whose special parole term has been revoked may be required to serve all or part of the remainder of the new term of imprisonment.

A special parole term provided for in this section, Section 845 of this title, shall be in addition to and not in lieu of any other parole provided for by law.

1 Has your lawyer made any prediction or
2 expressed any opinion as to what sentence will be
3 imposed?

4 THE DEFENDANT: No.

5 THE COURT: Have you discussed your plea of
6 guilty fully with your lawyer?

7 THE DEFENDANT: Yes.

8 THE COURT: Do you understand that you will
9 have the assistance of counsel at the time sentence
10 is imposed?

11 THE DEFENDANT: Yes.

12 THE COURT: Having been advised as to your
13 constitutional rights, the nature of the charge
14 against you, the consequences of your plea, how
15 do you plead to the information?

16 THE DEFENDANT: Guilty.

17 THE COURT: The Court finds there is a
18 factual basis for the plea and accepts the plea of
19 guilty to the information.

20 A presentence report is ordered. Sentencing
21 to be at such time as the presentencing report is
22 before the Court.

23 Bail continued?

24 MR. THOMPSON: The bail has not yet been set.
25 The other defendants in this case were established

1 at \$10,000 personal recognizance bond.

2 THE COURT: Bail is set at a \$10,000 per-
3 sonal recognizance bond.

4 MR. THOMPSON: The limit to be the contin-
5 ental United States. Since this defendant resides
6 in the State of California.

7 THE COURT: The limits are the continental
8 United States.

9 MR. ZEICHNER: Thank you, your Honor.

10 THE COURT: You'll go downstairs and sign
11 the bond.

12 THE DEFENDANT: Correct.

13 THE COURT: Is the Magistrate down there?

14 MR. THOMPSON: Yes.

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1 UNITED STATES DISTRICT COURT
2 EASTERN DISTRICT OF NEW YORK
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4 -----x
5 UNITED STATES OF AMERICA, :
6 -against- : 76-CR-558
7 BERNARD BERMAN, :
8 Defendant. :
9 -----x

10
11 United States Courthouse
12 Brooklyn, New York

13 May 27, 1977
14 10:00 o'clock A.M.

15 B E F O R E:

16 HONORABLE HENRY BRAMWELL, U.S.D.J.
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22 HARRY RAPAPORT
23 Acting Official Court Reporter
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25

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2 APPEARANCES:3 DAVID G. TRAGER, ESQ.
4 United States Attorney
for the Eastern District of New York5 By: EDWARD THOMPSON, JR., ESQ.,
6 Assistant U.S. Attorney7
8 HOWARD A. BOCIN, ESQ.,
9 Attorney for Defendant
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2 THE CLERK: USA versus Bernard Berman.

3 MR. BOGIN: Good morning, your Honor.

4 THE COURT: Good morning.

5 Any legal reason why this defendant should
6 not be sentenced?

7 MR. BOGIN: No, your Honor; there is not.

8 THE COURT: Mr. Berman, any reason why you
9 should not be sentenced this morning?

10 THE DEFENDANT: No, your Honor.

11 THE COURT: I will listen to your counsel.

12 MR. BOGIN: Having listened to the observations
13 of the preceding counsel and your Honor's dis-
14 position of those cases, I will not labor the Court
15 with a recitation of the degrees of cooperation
16 which my client has contributed to the United
17 States Attorney.

18 And I would also like to inform the Court
19 that I, having read the presentence report, feel
20 very comfortable about the accuracy, the literary
21 quality and the fairness of that report.

22 I have very little in the light of factual
23 contribution to make.

24 Your Honor is familiar with the report.

25 I would like to make a few observations,

1
2 however, with regard to the defendant's degree of
3 culpability as well as quality of the defendant's
4 personality, and in general, the ambiance in which
5 he resides.

6 To begin with, I think it's fair to say that
7 this defendant--and I think the presentence report
8 would disclose that to your Honor--has a con-
9 siderably less degree of culpability in the con-
10 spiracy for which the other defendants have been
11 sentenced, and in connection with the other defendants
12 are now being prosecuted.

13 This defendant was not privy originally
14 to the commencement of the conspiracy. And I
15 think your Honor is aware of that also.

16 THE COURT: He was the one who got the goods
17 through at the airport because that's where he
18 worked.

19 MR. BOGIN: Yes. I will bring that to your
20 Honor's attention in a moment.

21 I plan to be very fair and not extravagant
22 in my statements.

23 THE COURT: That's all right.

24 MR. BOGIN: I recognize your Honor's frame
25 of mind and disposition, and I do not wish to say

1 anything which is extraordinary and extreme.

2 This defendant had some skills by virtue of
3 his experience in airfreight forwarding and by
4 virtue of his experience in the matter of handling
5 incoming shipments at Kennedy Airport.
6

7 And having been aware of that, some of the
8 other defendants communicated with him at some
9 time intermediate to the entire conspiracy and
10 requested his aid.

11 He simply facilitated the bringing in of
12 contraband.

13 Now, I will not claim by any means that
14 the defendant was unaware of the fact that it was
15 contraband. And he has pleaded guilty to that.

16 However, I will say the amount of his privy
17 in connection with the ongoing conspiracy, the
18 elements of the conspiracy, is marginal. His
19 contact with the whole situation is tangential.

20 He knew nothing about the working of the
21 conspiracy because he never went to India.

22 THE COURT: Frankly, I would not agree with
23 you, because they would not be able to do this
24 without his experience and from what he did at the
25 airport to get this material through.

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2 MR. BOGIN: I have already acknowledged that.
3 There is no question about that.

4 Had they not secured his aid, they would have
5 secured someone else's. They secured his aid and
6 he gave it and he gave it with an intent for
7 earning a profit. And there is no question about
8 that. And as I say, the Probation Report makes
9 it clear, and I will not dispute it.

10 However, I will say, to the extent, if we
11 were to look at a scale from one to ten, the
12 degree of his culpability as compared to the others
13 is very low, possibly two or three, as to a possible
14 culpability degree of eight or nine.

15 THE COURT: I don't mean to interrupt you,
16 but I disagree with you because he was a participant
17 and a necessary and an important participant.
18 And without him I don't know if this scheme could
19 have gone through. Maybe it wouldn't have happened.
20 I don't know.

21 But I wouldn't say he was any less culpable
22 than any of the others. I definitely would not
23 put it that way. He was an important card in what
24 these fellows did.

25 MR. BOGIN: Reasonable minds would disagree,

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2 your Honor, and I would, of course, submit to your
3 Honor's final determination.

4 I wish to make a few other observations.
5 I do not wish to dwell on that situation since I
6 have already said what I must say about that.

7 The man before your Honor is not a young
8 man. He is a fifty-seven year old man, and he is
9 a father and a grandfather.

10 He is devoted and the presentence report
11 would make that evident to your Honor. He has
12 devoted his entire life to the welfare of his
13 family and the commitment of his business. He
14 has no hobbies and no other interests in his life.
15 And aside from this one transgression he pursued
16 all his interests honestly.

17 And I think the presentence report would
18 evidence to your Honor this man represents a normal
19 and honest existence over the period of his entire
20 life.

21 Now, he has a contribution to make both
22 socially and economically. He has recently separated
23 from a previous business activity and become engaged
24 with a new business of a similar character, it's an
25 embryonic business, your Honor. And I believe the

A 58

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2 absence of this man to that business would be
3 fatal to the young and growing business and to
4 which he has invested all of his personal assets.

5 There are a number of people dependent upon
6 him, on his presence, to continue his business.
7 The business is growing and can employ other people.

8 The defendant does not, in my estimation,
9 your Honor, he does not represent a threat to the
10 community. He does not represent a danger to the
11 social or economic world in which he lives. On
12 the contrary, he represents--and I say humbly--

13 THE COURT: I can make that statement about
14 any one of the whole group involved. There is
15 nobody in this particular group of individuals whom
16 I see would represent a threat to the community.
17 I don't feel that any of them do.

18 MR. BOGIN: Agreed. And I am pleased your
19 Honor agrees with me on that score.

20 The fact that he is distinguished from the
21 others in my opinion offers me the opportunity for
22 me to say to your Honor he is a man of advanced
23 years. He is a man who has a genuine contribution
24 to make to the community. He is a man who has a
25 completely clean and exemplary record.

1
2 Your Honor will realize he has never been
3 in trouble before and I think it's fair to say he
4 never will be again, regardless of the outcome
5 of this sentence activity.

6 I ask your Honor in all humbleness and all
7 earnestness to consider this defendant as an
8 appropriate candidate for probation, rather than
9 for a sentence of a jail term. And I thank you
10 for hearing me.

11 THE COURT: Thank you, counselor.

12 Mr. Berman, what would you like to tell the
13 Court?

14 THE DEFENDANT: The only thing I would like
15 to say is that I was wrong and I am deeply ashamed
16 of what I did. And that's really all I can tell
17 the Court. I am deeply ashamed of what I did.

18 MR. THOMPSON: Your Honor--

19 THE COURT: Yes, Mr. Thompson.

20 MR. THOMPSON: Mr. Berman has fully
21 cooperated. The DEA has confirmed this and he
22 has indicated and assured me of his continuing
23 availability in the event the Government desires to
24 use him as a witness.

25 THE COURT: Thank you.

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2 Anything further?

3 MR. BOGIN: No, your Honor.

4 Thank you.

5 THE COURT: All right.

6 This Court has taken into consideration
7 the fact that this defendant pleaded guilty.

8 Government agents have advised that the
9 defendant provided a full and truthful statement
10 as to his participation.

11 The defendant stated that he assisted in
12 five smuggling operations since 1972 and earned
13 approximately \$80,000.

14 Cooperative co-defendants claimed that
15 he earned at least that amount from January 1975
16 shipment alone.

17 This defendant assumed the dual role of
18 investing. He invested \$20,000 and he was also
19 a facilitator of the smuggling scheme, wherein he
20 would utilize his legitimate position as an air
21 cargo executive, to ease the passage of the
22 controlled substance through the appropriate
23 authorities.

24 Based on the defendant's own admission he
25 provided similar assistance in six previous

1
2 successful ventures with the same group, although
3 he did not invest his own money until 1975.

4 Prior to this case this defendant has no
5 known criminal record.

6 It is adjudged that the defendant is hereby
7 committed to the custody of the Attorney General,
8 or his authorized representative, for imprisonment
9 for a term of three years, plus a special parole
10 term of five years, and fined the sum of \$10,000.

11 MR. BOGIN: Will your Honor consider a
12 thirty-day stay on behalf of this defendant?

13 THE COURT: Surely.

14 Stayed until when?

15 MR. BOGIN: I will ask a stay until June
16 30th.

17 THE COURT: Stayed until June 30th.

18 On June 30th the defendant will surrender to
19 the United States Marshal on the first floor in this
20 building.

21 Has he been fingerprinted and photographed?

22 MR. THOMPSON: Yes, your Honor.

23 THE COURT: Thank you.

24 MR. THOMPSON: In this case the Government
25 would move to dismiss the counts two and three as

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2 to this defendant.

3 THE COURT: Application is granted.

4 MR. THOMPSON: Thank you, your Honor.

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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA, :

-against- : 76-CR-558

BARRY JACOBS, :

Defendant. :

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United States Courthouse
Brooklyn, New York

May 27, 1977
10:00 o'clock A.M.

B E F O R E:

HONORABLE HENRY BRAMWELL, U.S.D.J.

HARRY RAPAPORT
Acting Official Court Reporter

APPEARANCES:

DAVID G. TRAGER, ESQ.,
United States Attorney
for the Eastern District of New York

By: EDWARD THOMPSON, JR., ESQ.,
Assistant U.S. Attorney

LEONARD FUSFIELD, ESQ.,
Attorney for Defendant

1 THE CLERK: USA against Barry Jacobs.

2 THE COURT: Mr. Fusfield, any legal reason
3 why this defendant should not be sentenced?
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5 MR. FUSFIELD: No legal reason, your Honor.

6 THE COURT: Mr. Jacobs, any reason why
7 you should not be sentenced today?

8 THE DEFENDANT: No, your Honor.

9 THE COURT: I will hear Mr. Fusfield.

10 MR. FUSFIELD: If your Honor pleases, the
11 Court has a full and complete presentence report
12 before it and I would like to reiterate what Mr.
13 Lopez has stated to the Court, and most respect-
14 fully.

15 All the information that is contained therein
16 was supplied from the mouth of Mr. Jacobs and Mr.
17 Atlas immediately upon their arrest, that the
18 U.S. Attorney's Office had no information what-
19 soever with regard to any of these activities.

20 It is inconceivable to me, your Honor, that
21 their candor and cooperation and honesty would
22 inure to their detriment rather than their benefit.

23 THE COURT: You mean they made a deal with
24 somebody?

25 MR. FUSFIELD: No.

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2 THE COURT: You mean there was a deal that
3 they must be given some sort of special consideration
4 because of an extensive operation like this, where
5 hundreds of thousands of people are brought into
6 a drug culture, and now they must be rewarded?

7 MR. FUSFIELD: No. I am not making an excuse
8 for the activity, but I am merely saying, your
9 Honor, that to me it's illogical if the U.S.
10 Government has no information about all these
11 activities in the past, that because of their
12 complete candor or honesty and cooperation from the
13 inception of their arrest, and that the information
14 received by the Government was as a result of their
15 cooperation and knowing, knowing at that point that
16 the Government had no information with regard to
17 any of these activities, they still came forward and
18 they should be rewarded for that.

19 THE COURT: When this defendant pleaded, was
20 that what you told him?

21 MR. FUSFIELD: I told him that I believe that
22 consideration would be received by the Court and
23 from the U.S. Attorney's Office if full disclosure
24 of all the activities, not only in regard to their
25 arrest, but all the activities with regard to the

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2 hashish importation.

3 THE COURT: This is a very extensive and
4 involved operation. Just about every defendant
5 claims cooperation, and in fact everyone claimed
6 cooperation.

7 MR. FUSFIELD: And in fact cooperated.

8 THE COURT: Yes, not only this one, but
9 everyone claims that, everyone claims that his
10 cooperation--that he has cooperated. Everyone
11 puts himself in a position of having cooperated
12 and helped the Government in this case.

13 MR. FUSFIELD: You mean all of the three
14 defendants, your Honor, that were arrested? All
15 of the three or all of the thirteen?

16 THE COURT: Everyone.

17 Let Mr. Thompson tell you.

18 Tell us about the cooperation of all of the
19 defendants.

20 Let him tell you.

21 MR. THOMPSON: In addition to Mr. Jacobs,
22 Atlas and Berman, Mr. Kamen, Mr. Lobe and Mr.
23 Freedman also have entered pleas of guilty and have
24 furnished initial cooperation in the form of being
25 debriefed by the DEA.

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2 Mr. Freedman is now in California cooperating
3 in California in connection with this same case.

4 MR. FUSFIELD: That's Mr. Lobe, your Honor.

5 THE COURT: Or is it other matters?

6 MR. THOMPSON: No. The matter with Mr.
7 Lobe deals with other controlled substances man-
8 ufactured in California.

9 THE COURT: As to the cooperation with all
10 of the defendants in this case, what has happened?

11 MR. THOMPSON: They have all been full and
12 complete, your Honor.

13 MR. FUSFIELD: But, your Honor, the point
14 I am making is that there were only three individuals
15 arrested to begin with, Mr. Berman, Mr. Jacobs
16 and Mr. Atlas.

17 The U.S. Government would have had no case,
18 I believe, in my judgment as an attorney, against
19 any of the three of them.

20 THE COURT: Well, for the case that is before
21 the Court, didn't they pick someone up with the
22 717 pounds of hashish?

23 MR. FUSFIELD: No, your Honor.

24 THE COURT: How did they get them?

25 MR. FUSFIELD: They were on the scene. They

1
2 were nearby.

3 They did not have sufficient evidence, I
4 believe, to sustain a conviction against them.
5 And knowing this they still made full disclosures.

6 And not only did they make full disclosures,
7 but they supplied the Government with thirteen
8 names which resulted in indictments, and which
9 resulted in subsequent cooperation with regard
10 to unrelated matters.

11 These things most certainly, your Honor, I
12 believe--most respectfully should be taken into
13 consideration in meting sentence with regard to
14 Mr. Jacobs and Atlas.

15 THE COURT: At the time the 717 pounds were
16 taken in by the Government, what happened at that
17 point?

18 MR. THOMPSON: Mr. Berman presented a check
19 which he had drawn to the Airline Airfreight
20 personnel.

21 Customs had already identified the packages,
22 the 28 crates, as containing hashish.

23 As a result it was under observation at the
24 time Mr. Berman--

25 THE COURT: Mr. Berman is one of the

1
2 defendants here?

3 MR. THOMPSON: Yes, your Honor.

4 THE COURT: What happened after that?

5 MR. THOMPSON: The 28 crates were allowed
6 to be loaded out of the customs airfreight area
7 at Air India into a truck which was owned and
8 operated by a moving company, which one of the
9 defendants is the son of the proprietor of that
10 moving company.

11 THE COURT: Who is involved in that moving
12 company?

13 MR. THOMPSON: It's either Mr. Atlas or
14 Mr. Jacobs, your Honor.

15 THE COURT: One of the two?

16 MR. THOMPSON: Yes.

17 Mr. Atlas and Mr. Jacobs were parked in a
18 vehicle opposite the parking area and loading ramp
19 where the moving truck accepted the 28 crates.

20 They had been under surveillance by DEA
21 agents who themselves were in vehicles in the
22 immediate area also.

23 As the truck began to leave the area, pull
24 away from the loading dock, it was intercepted.

25 And at that point agents--the car in which

1
2 Mr. Atlas and Jacobs were together, one of them
3 left the car to walk toward another vehicle, and
4 at that point they were also arrested.

5 THE COURT: Are you trying to tell the Court
6 they wouldn't have arrested or found these men in
7 this case?

8 MR. FUSFIELD: Yes, your Honor.

9 THE COURT: You are saying that? That's
10 your position?

11 MR. FUSFIELD: Your Honor, there was no
12 overt act.

13 THE COURT: I am not saying there was an
14 overt act.

15 But are you saying in this case they might
16 not have arrested these men?

17 MR. FUSFIELD: They would have investigated
18 and perhaps arrested these men, and I doubt if there
19 would have been a conviction if they remained
20 silent.

21 THE COURT: I will accept what you want to
22 say.

23 Anything else you want to say?

24 MR. FUSFIELD: Further, not only did they
25 not remain silent and not only did they give

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2 information with that particular transaction, your
3 Honor, but they volunteered to give information with
4 regard to activities for years prior, where the
5 Government had no information whatsoever.

6 If they had investigated, there would be
7 nowhere for them to start. They didn't know of
8 any other activities.

9 This information that the Court has on its
10 presentence report was supplied solely by the
11 information given to the Courts and which the
12 U.S. Attorney's Office feels is completely candid
13 and honest with regard to their prior activities.

14 I think that this voluntary disclosure on
15 their part is an indication of their seeking for
16 rehabilitation, that they want this rehabilitation,
17 that they are in the process of being rehabilitated.

18 I think that the fact that these activities
19 continued for four years before should, therefore,
20 not inure to their detriment, but because of their
21 complete candor and honesty and cooperation, resulting
22 in later indictments and the naming of thirteen
23 other people involved, should certainly have some--
24 should inure to their benefit, your Honor.

25 I believe, besides this factor, Mr. Jacobs

1 is thirty--is going to be thirty years old in
2 two weeks. He is recently married. He has been
3 married for almost a year now. He has a lovely
4 wife who is an assistant manager and a bookkeeper
5 in Manhattan. She is certainly a stabilizing in-
6 fluence upon the defendant.
7

8 Mr. Jacobs has--and I think the U.S.
9 Attorney's Office would corroborate this--has been
10 a follower, not certainly one of the principals
11 and the leaders of this particular conspiracy; that
12 he has recently become a manager of a Sixth Avenue
13 plant wholesalers and distributors store and has
14 been the manager since it opened in November, and
15 this store is located at 355 6th Avenue in Manhattan.

16 He is a graduate of Midwood High School and
17 then attended Kingsboro and Queensboro Community
18 College for two years.

19 He is also a United States Army Veteran,
20 your Honor. He received an honorable discharge
21 after serving for two years.

22 He has fought in Viet Nam and was in Viet
23 Nam for one year from 1967 to 1968.

24 I think under all the circumstances, your
25 Honor, I most respectfully request leniency.

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2 THE COURT: Thank you.

3 Mr. Jacobs, what would you like to tell the
4 Court?

5 THE DEFENDANT: Just I regret doing what I
6 have done and I have caused a lot of pain on a lot
7 of people.

8 THE COURT: Anything else?

9 THE DEFENDANT: No, your Honor.

10 THE COURT: All right.

11 The Court has taken into consideration the
12 fact that this defendant pleaded guilty--

13 MR. THOMPSON: Your Honor, excuse me.

14 THE COURT: You want to say something about
15 the cooperation?

16 MR. THOMPSON: Yes, your Honor.

17 This defendant's cooperation was in fact
18 full and complete. The agent who conducted the
19 debriefing has confirmed this to me as well as my
20 own evaluation at the debriefing. And I will submit
21 that to your Honor in addition to the letter which
22 is before the Court.

23 THE COURT: Yes, which you sent to the Court;
24 thank you.

25 Anything further?

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2 MR. FUSFIELD: No, your Honor.

3 THE COURT: All right.

4 Including the instant offense, the defendant
5 and others were involved in seven operations in-
6 volving the importing of hashish illegally.

7 In February 1972, 44 pounds; September 1972,
8 330 pounds; November 1972, 400 pounds; December
9 1972, 450 pounds; January 1974, 330 pounds;
10 January 1975, 800 pounds; March 1976, 717 pounds,
11 and that is the offense which is before the Court.

12 Prior to this case, this defendant has
13 no known criminal record.

14 This defendant has reportedly gotten profits
15 in excess--well, in excess of \$100,000 for his
16 smuggling activities during the course of his
17 involvement.

18 It is adjudged that the defendant is hereby
19 committed to the custody of the Attorney General,
20 or his authorized representative, for imprisonment
21 for a term of two years, plus a special parole
22 term of five years.

23 MR. FUSFIELD: May we have a stay, your Honor,
24 until June 17th?

25 THE COURT: Stayed to June 17th to surrender

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2 at 12:00 noon on that day.

3 The defendant will surrender to the U.S.
4 Marshal on the First Floor in this building.

5 Has he been photographed and fingerprinted?

6 MR. THOMPSON: Yes, your Honor.

7 THE COURT: Thank you.

8 MR. THOMPSON: At this time the Government
9 would move to dismiss counts two and three as to
10 this defendant.

11 THE COURT: Application granted.

12 MR. FUSFIELD: Thank you, your Honor.

13 THE COURT: Thank you.

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1 UNITED STATES DISTRICT COURT

2 EASTERN DISTRICT OF NEW YORK

3 -----X

4 UNITED STATES OF AMERICA, :

5 -against- : 76-CR-558

6 PHILIP ATLAS, :

7 Defendant. :

8 -----X

9
10 United States Courthouse
11 Brooklyn, New York

12 May 27, 1977
10:00 o'clock A.M.

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14 B E F O R E:

15 HONORABLE HENRY BRAMWELL, U.S.D.J.
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22 HARRY RAPAPORT
23 Acting Official Court Reporter
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25

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2 APPEARANCES:3 DAVID G. TRAGER, ESQ.,
4 United States Attorney
for the Eastern District of New York5 By: EDWARD THOMPSON, JR., ESQ.,
6 Assistant U.S. Attorney7 FRANK LOPEZ, ESQ.,
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9 Attorney for Defendant
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2 THE CLERK: For sentence, Philip Atlas.

3 THE COURT: Mr. Lopez, good morning.

4 Is there any legal reason why the defendant
5 should not be sentenced this morning?

6 MR. LOPEZ: No, your Honor.

7 THE COURT: Mr. Atlas, is there any reason
8 why you should not be sentenced?

9 THE DEFENDANT: No, your Honor.

10 THE COURT: I will hear Mr. Lopez.

11 MR. LOPEZ: Thank you very much, your Honor.

12 Your Honor, this is a somewhat different
13 circumstance type of sentence that we have here with
14 Philip Atlas.

15 In a way, your Honor, it involves the judg-
16 ment of at least five or six attorneys in this
17 matter as to what was done here. And for that
18 reason I thank the Court for graciously taking the
19 sentence of Philip Atlas first.

20 What was done here was absolutely wrong.
21 In March of 1976 Atlas and Jacobs were arrested
22 at John F. Kennedy Airport. They were present at
23 a scene where a delivery of a substantial amount
24 of hashish was to take place.

25 With their physical arrest and without their

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2 statements, admittedly the Government had no case
3 against them. But they were held in detention and
4 they began conversations with Drug Enforcement
5 Administration officials. They began to fully
6 cooperate with them.

7 That same night Mr. Tobin's office and
8 members of the DEA communicated with me, as these
9 young men asked for an attorney at a subsequent
10 time, and asked me to help them on their cooperation.

11 At that time they had three men under arrest,
12 Berman, Jacobs and Atlas.

13 I had extensive conversations with Mr.
14 Scotti of the U.S. Attorney's office, and subsequently
15 Mr. Thompson. I mentioned the case to Mr. Puccio,
16 and I also spoke to Mr. Tobin about the case.
17 And I had to make a decision, and it was a
18 difficult decision for me to make, and I had to
19 make it in conjunction with the other attorneys.

20 I had learned from my client that this is
21 not a one shot deal, that there had been an
22 extensive conspiracy dating back to 1972. And
23 my client asked me for my advice.

24 The Government had no knowledge of this
25 conspiracy whatsoever, and what had happened in

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2 1972, they knew nothing about it, absolutely
3 nothing, no leads, nothing.

4 I sat down with the U.S. Attorney's office
5 here in the Eastern District, for whom I have
6 the greatest respect, your Honor. And I made a
7 decision. And I asked Mr. Atlas, and in con-
8 sultation with Mr. Fusfield and other attorneys,
9 to make full disclosure to the Government of
10 everything that happened in their entire lives with
11 regard to the hashish trade or any other illicit
12 activities.

13 Now, this was a big decision for me to make
14 because of the fact that I realize that the Govern-
15 ment having no leads on any other matters, this
16 might militate against me at sentence.

17 Well, the attorneys got together and we
18 felt that honesty, frankness and the interests of
19 our clients insofar as rehabilitation, required that
20 we make this type of disclosure to the Government.

21 The list that you read about transactions
22 in the Freedman sentencing was turned over by me
23 to the Government. The Government never knew anything
24 about this. And we turned it over to them.

25 THE COURT: Are you saying that but for your

1 actions the Government would never have known this?

2 MR. LOPEZ: Never have known about it.

3 THE COURT: You mean it would never have
4 come out through any source?

5 MR. LOPEZ: No source.

6 THE COURT: What about the others who were
7 involved?

8 MR. LOPEZ: They were silent.

9 If you let me finish, your Honor, you will
10 see what happened.

11 They didn't know anything about the existence
12 of other people. We told the Government. There
13 are thirteen other people involved. The Government
14 didn't even know their names, who they were.

15 We did something more, your Honor. We got
16 in touch with attorneys in California. For in-
17 stance, Larry Freedman, whom your Honor just
18 sentenced, he was out of the picture completely.
19 And we told him and we told the Government we are
20 doing this, we are going to ask other people to
21 come in and make disclosures, because we are going
22 to provide information.

23 And when Mr. Freedman was told this, and
24 his attorney was told this, and we sat down together,
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2 and Mr. Freedman--whom I have a great deal of
3 respect for--learned about this, he said, "Well,
4 I feel I have an obligation since I participated
5 in this matter to make my presence known, my
6 identity known," and he took a taxi and came to
7 New York.

8 On that same day, Atlas and Jacobs were
9 interviewed and debriefed by the DEA. On that
10 same day Mr. Freedman was sitting in the lobby to
11 tell the DEA, "Here I am."

12 Throughout this whole negotiation we urged
13 honesty and frankness because we felt that the
14 Court would take all these factors into con-
15 sideration.

16 At no time, your Honor, did Mr. Thompson
17 ever indicate to us what the possibility of sentence
18 would be. I want to be very candid about that.
19 We knew the Government would come forward.

20 There are other people involved here. There
21 are other investigations being conducted.

22 As a result of the cooperation of these
23 individuals, for instance, the sentence of Marshal
24 Lobe (phonetic spelling) has been put over before
25 your Honor. He is cooperating with Mr. DePetris on

1
2 unrelated matters. So there has been a windfall
3 of disclosure.

4 And I am in trouble, your Honor. The
5 attorneys--and I take the responsibility--followed
6 my lead. When I said frankness, irrespective of
7 the fact the Government knows nothing about any
8 of these things, they have no information and there
9 is a--

10 THE COURT: You did what you felt was right.

11 MR. LOPEZ: Yes, your Honor.

12 THE COURT: All right.

13 MR. LOPEZ: And this is the judgment as an
14 attorney I made.

15 And I felt at the end this, of course, would
16 be considered by the Court and would not militate
17 against me.

18 I am troubled, and I realize the extent of
19 the traffic here, and I realize also--

20 THE COURT: This is not a small operation.

21 MR. LOPEZ: No, your Honor.

22 THE COURT: No, sir; by no means.

23 MR. LOPEZ: By no means.

24 And the Government would know nothing about
25 it if we weren't frank about the whole story.

1
2 They knew nothing about it. We wanted them to know
3 the whole story. And other people were brought
4 in only through us, and they knew about it only
5 through us.

6 I will tell you what I am troubled about
7 and why I need the Court's help.

8 Your Honor sentenced another co-defendant
9 in this case, Mr. Kamen.

10 THE COURT: To two years.

11 MR. LOPEZ: Yes.

12 Mr. Kamen came in on the eleventh hour.
13 We did all the cooperating and we tried to bring
14 everybody in on this case.

15 Mr. Freedman also received a two year
16 sentence just a few moments ago.

17 THE COURT: Yes.

18 MR. LOPEZ: I feel your Honor did not
19 have all the facts in sentencing him and all the
20 background.

21 Because what is happening here is this:
22 If we cooperate and we make full and honest and
23 truthful disclosures about things the Government
24 knows nothing about, if we assured them our full
25 cooperation, are we entitled to more consideration

1 than a defendant who has not cooperated with the
2 Government, who came in on the eleventh hour when
3 there was no other course open to him?
4

5 These are things that trouble me as an
6 attorney.

7 THE COURT: Is it your position that you
8 feel you made a deal which the Court is bound by?

9 MR. LOPEZ: No, your Honor.

10 What I want to point out is at no time did
11 Mr. Thompson ever tell me what the sentence in this
12 case would be, nor did he make any promise or
13 representation.

14 THE COURT: You seem to be urging something
15 on the Court. What are you urging on the Court?

16 MR. LOPEZ: I am urging, quite frankly,
17 speaking, your Honor, the kind of sentence that
18 would permit Mr. Atlas to remain on a probationary
19 status, to be given an opportunity.

20 He realizes, your Honor, the extent of the
21 traffic here. And he also realizes he made a
22 very important decision with his attorney. He was
23 truthful, frank. He came forward. He brought other
24 people into the case. He urged other people to
25 come in and surrender themselves. He did the job,

1
2 your Honor. And I think that must weigh extensively
3 and heavy as far as the Court is concerned; and
4 I know it will, your Honor.

5 But what I am urging at this time, your
6 Honor, is Mr. Atlas receive a sentence of probation
7 on this matter, however long it may be. Because
8 I think in the sentencing scheme in this case and
9 in the balancing, that equity seems to call for that
10 kind of decision. This is my humble judgment.
11 Naturally it is your Honor who must make the ultimate
12 determination.

13 But I did want to speak insofar as Atlas
14 is concerned and the remaining defendants who
15 were to be sentenced yet, and I had to make known
16 the decision in this particular case. And I had
17 to live with them over the past few months because
18 when I sat down with the probation office and
19 Mr. Thompson, I wondered about my judgment, should
20 I have urged my client to give not untruthful, but
21 limited cooperation.

22 Because as the Probation Department pointed
23 out to me, this is a strange kind of case. We are
24 actually submitting reports to the Court based on
25 the truthful and candid statements made by the

1
2 defendant, which they knew nothing about it.

3 And now the Court so rightfully looks at
4 those statements and is, of course, upset and
5 naturally so, by the extent of the conspiracy; and
6 must ask itself, "Now, what am I to do here."

7 But I hope when you look at generally the
8 picture here, you will take into consideration what
9 counsel has done and what we have urged upon our
10 own clients in good faith, and what the Government
11 in good faith has received; the continued hope of
12 cooperation; what they certainly will receive from
13 the clients, from Mr. Atlas, and others involved
14 here; the candor with which they had spoken to the
15 Probation Department and the U.S. Attorney's Office.

16 And specifically, as far as Philip Atlas
17 is concerned, I have seen the presentence report and
18 I am in agreement with it, he is a young man, he
19 is twenty-eight years of age, he is on the verge
20 of marriage. His marriage has not been consummated
21 for the simple reason he is here for sentence, your
22 Honor.

23 He is in a family business, your Honor, working
24 with his family. He has hopes for the future. He
25 realized profits in this particular matter, which were

1 thrown stupidly away.

2
3 He has received help of different kinds in
4 correcting his previous bad habits, your Honor.
5 He has been thoughtful and with regard to this
6 entire matter, Judge Bramwell. And he hopes he can
7 make a new life for himself and start off anew.

8 And I feel the type of sentence that is a
9 revocable kind of thing, that the Probation
10 Department has a control over this individual,
11 is the kind of sentence that would best fit in
12 insofar as Atlas is concerned. And, of course,
13 your Honor, that type of sentence would also be an
14 encouragement with attorneys who are faced with
15 that kind of problem, does my client tell everything,
16 even things they didn't know about.

17 That's the kind of judgment I had to make
18 in this case, and that's why I may be so personally
19 involved in the matter, because it's my judgment
20 that is really being called to task. And I felt
21 I made the right decision, your Honor. But I
22 wanted you to know what problems and what dilemmas
23 I was faced with.

24 And the people that were named were very
25 close friends. And when they were named, we told the

1
2 U.S. Attorney's Office we would get in touch with
3 them and tell them what we are doing and ask them
4 and urge them to come in.

5 And as a result of some of this cooperation,
6 as I now say, Marshal Lobe has now gone off into
7 an independent matter which is now being studied
8 by the U.S. Attorney's office.

9 So, your Honor, we are at your mercy. And
10 his hopes and aspirations for the future are in
11 your hands, and I hope I was right.

12 Thank you very much, Judge Bramwell.

13 THE COURT: Mr. Atlas, what would you like
14 to tell the Court.

15 THE DEFENDANT: Well, your Honor, I realized
16 what I did was wrong. It was a very bad thing. And
17 it was something I managed to get the money I
18 incurred for gambling debts.

19 I have changed my way in the last year. I
20 have been attending Gamblers Anonymous, and I haven't
21 gambled in almost a year now. And it's a wrong
22 thing, and I am trying to fit into society as a
23 normal person.

24 THE COURT: Anything further?

25 THE DEFENDANT: No.

1
2 THE COURT: Would you like to say something,
3 Mr. Thompson?

4 MR. THOMPSON: Yes, your Honor.

5 First of all, I would like to confirm that
6 this defendant in fact, both in my opinion person-
7 ally and as well as the opinions of the Drug
8 Enforcement Agent who conducted his debriefing,
9 was fully candid and absolutely truthful in great
10 detail. And in addition he has remained available
11 and has on several occasions reported in on even
12 very short notice to be available for the purpose
13 of an eleventh hour question or a particular
14 inquiry.

15 And also, your Honor, the failure of the
16 cooperation to have yet arrived at either Grand
17 Jury or even trial testimony, is exclusively that
18 of the intricate and extensive investigation that
19 the Government is conducting rather than any
20 dilatory or other untoured conduct on the part of
21 the defendant.

22 THE COURT: Is it the Government's position
23 that the only way which the information that the
24 Court has before it could have come out is through
25 this particular defendant and his attorney, the

1
2 only way?

3 MR. THOMPSON: Judge, I am very reluctant
4 to say "never" or "always". And the word "only"
5 is very close to the word "always".

6 THE COURT: You had this case and you know
7 what was going on, so I think you have to have a
8 position in view--that this defendant was the only
9 way.

10 MR. THOMPSON: In view of the number of
11 defendants originally arrested, your Honor, and the
12 circumstances of that arrest, it would have been
13 unlikely that the Government would have been
14 totally unaware of any prior conduct.

15 The rapidity and accuracy of the information
16 from hours of the arrest, continuing thereafter,
17 greatly assisted the Government.

18 THE COURT: I am sure it did. But the
19 Government could have arrived at some of this
20 other than from this defendant?

21 MR. THOMPSON: Particularly there was some
22 similarity of names, there were documents used to
23 enter the crates into the country which contained
24 names and addresses and sources which would be
25 investigative leads, which I am sure would be

1
2 immediately pursued in great detail, but for
3 their cooperation.

4 I can't say--I don't think anyone could,
5 your Honor--whether in a given case if an agent
6 went to India and spoke with the packer of those
7 crates, that packer would have been cooperating
8 or would have declined to answer, or the fictitious
9 receiver at a certain address, if confronted by a
10 certain agent at a susceptible moment, that person
11 may have been forewarned or sufficiently aware of
12 what happened to deny anything.

13 So the investigation could have come to
14 rather a forshortened result.

15 We never had to go to that length in this
16 case because of the virtually immediate cooperation.

17 MR. LOPEZ: Your Honor, I think there is one
18 question that should be put to the Government with
19 regard to your Honor's inquiry.

20 Prior to the arrest of Atlas, Jacobs and
21 Berman, did the DEA even have a reference to their
22 names, and much more--

23 THE COURT: I have asked him. You have stated
24 that as your position and I have asked him what would
25 come out of it, and he has basically told me what

1
2 the Government's position is. So actually prior they
3 may not have known, but he has given some information
4 to the Court on what possibly could or could not
5 have been done.

6 Anything further?

7 MR. LOPEZ: Nothing further, your Honor.

8 THE COURT: Anything further?

9 MR. THOMPSON: No, your Honor.

10 THE COURT: The Court has taken into con-
11 sideration the fact that this defendant pleaded
12 guilty.

13 Shortly after his apprehension this defendant
14 agreed to cooperate fully with the Government
15 agents and revealed that he, along with several
16 others, were involved in the smuggling of substantial
17 amounts of hashish just as his attorney states.

18 Including the instant offense, the defendant
19 and others were involved in seven operations in-
20 volving the importing of hashish illegally: On
21 February 1972, forty-four pounds; September 1972,
22 330 pounds; November 1972, 400 pounds; December 1972,
23 450 pounds; January 1974, 330 pounds; January 1975,
24 800 pounds; March 1976, 717 pounds, which is the
25 instant offense and the one before the Court.

1
2 This defendant was arrested on one prior
3 occasion, but charges were dismissed.

4 The conspiracy with which the defendant
5 was involved was an extensive operation in which
6 very sizable sums of money were realized.

7 During the past four years the defendant
8 realized overall profits of approximately \$300,000.

9 It is adjudged that the defendant is hereby
10 committed to the custody of the Attorney General,
11 or his authorized representative, for imprisonment
12 for a term of three years, plus a special parole
13 term of seven years, plus a fine of \$10,000.

14 MR. LOPEZ: Your Honor, most respectfully,
15 may we have until June 17th for a stay of surrender?

16 THE COURT: Where will he surrender?

17 MR. LOPEZ: Here in the Eastern District.

18 THE COURT: All right.

19 Stayed until June 17th, 12:00 noon.

20 The defendant will surrender to the United
21 States Marshal in this District.

22 If the defendant has not been fingerprinted
23 and photographed, that is to be done immediately.

24 MR. LOPEZ: I think he has.

25 MR. THOMPSON: Yes, your Honor.

1
2 PROBATION OFFICER: I think there are open
3 counts on that case. Perhaps the Assistant U.S.
4 Attorney has a motion.

5 MR. THOMPSON: The Government would move
6 to dismiss the open counts in the indictment as
7 to the defendant Atlas. Those are counts two and
8 three.

9 THE COURT: Granted.

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1 UNITED STATES DISTRICT COURT
2 EASTERN DISTRICT OF NEW YORK

3 -----x
4 UNITED STATES OF AMERICA :
5 - against - : 76-CR-688
6 LAWRENCE FRIEDMAN, :
7 Defendant. :
8 -----x

9
10 United States Courthouse
11 Brooklyn, New York

12 May 27, 1977
13 10:00 o'clock A.M.

14 B e f o r e:

15 HONORABLE HENRY BRAMWELL, U.S.D.J.
16
17
18
19
20
21
22
23

24 HARRY RAPAPORT
25 Acting Official Court Reporter

Appearances:

DAVID G. TRAGER, ESQ.,
United States Attorney
for the Eastern District of New York

By: THOMAS PATTISON, ESQ.,
Assistant U.S. Attorney,
For the Government.

IRA ZEICHNER, ESQ.,
401 B'way
New York, New York 10013
For the Defendant.

1
2 THE CLERK: United States against Lawrence
3 Friedman.

4 MR. ZEICHNER: Ira Zeichner, Z-e-i-c-h-n-e-r.

5 THE COURT: Is there any legal reason why
6 this defendant should not be sentenced this
7 morning?

8 MR. ZEICHNER: No, your Honor.

9 THE COURT: Mr. Friedman, is there any
10 reason why you should not be sentenced today?

11 THE DEFENDANT: No, your Honor.

12 THE COURT: All right.

13 I will hear your attorney.

14 MR. ZEICHNER: Your Honor, Larry Friedman
15 stands before you today partly because of his
16 dishonesty and more largely because of his honesty.

17 Larry is presently a resident of the State
18 of California, and has been such for the last five
19 years. He was raised and born in New York, graduated
20 college in New York and married shortly upon his
21 graduation.

22 Upon that time he was unable to obtain
23 employment in his chosen field, which was teaching.
24 And together with his new marriage, after many
25 menial jobs, he was forced to relocate in hopes of

A 100

1
2 bettering himself. He did this and moved to
3 California.

4 He developed new skills and new ideas in
5 the field of carpentry and real estate, and has
6 become a very useful and productive member of his
7 community.

8 Upon hearing that acquaintances of his
9 in New York were arrested, he contacted my office
10 knowing he was somewhat involved, and knowing he
11 wanted to do something at that time.

12 Larry voluntarily came forward and flew
13 over from California and had a meeting with
14 Assistant U.S. Attorney Edward Thompson.

15 Larry was never known by the police, never
16 sought by the police, never arrested and subsequently
17 indicted.

18 He cooperated at all times with all agencies
19 of the United States Government, including the
20 United States Attorney's office.

21 As a direct result of his cooperation with
22 the United States Attorney's office, other primary
23 members of this conspiracy did in fact come forward
24 and are before this Court.

25 I think it's important again to point out

A 101

1
2 again to this Court the exact nature of Larry's
3 one act in furtherance of this conspiracy. His
4 act consisted of giving a friend of his in Califor-
5 nia an amount of money to purchase a small quantity
6 of hashish for his personal use.

7 THE COURT: I might say, didn't he travel
8 to India and build the boxes that were used to
9 bring this--to bring this in?

10 MR. ZIECHNER: No.

11 THE COURT: That's in the report.

12 He stated his initial roll was that of a
13 full time partner whose responsibility it was to
14 build the boxes.

15 MR. ZEICHNER: Your Honor, this was in 1972.

16 THE COURT: Oh, that was the original work
17 he was doing?

18 MR. ZEICHNER: Yes.

19 THE COURT: But recently he hasn't been
20 building the boxes?

21 MR. ZEICHNER: No. He has had no contact.

22 THE COURT: But at that time he traveled
23 to India and actually built the boxes?

24 MR. ZEICHNER: Yes, in 1972.

25 But the acts he is charged with for today

1 is the conspiracy on the hash, which he had no
2 contact with whatsoever. This also includes the
3 importing and possible distribution. And he was
4 never involved in any of these acts. And as a
5 matter of fact, he was never even in New York
6 whenever these acts were taking place.
7

8 And with the amount of money attributed
9 to him, he has been labeled as an investor, although
10 the amount of money involved was somewhat less than
11 four percent of the total amount involved of the
12 total purchase herein.

13 At this time, your Honor, we respectfully
14 request the Court to give Larry Friedman one
15 opportunity to remain as a productive and useful
16 member of our society.

17 To date he has an unblemished criminal
18 record and has established himself as a productive
19 citizen in the State of California and enjoys a
20 very good reputation there as is reflected, I am
21 sure, in the letters sent to you.

22 We, therefore, at this time respectfully
23 request that this Court show mercy and justice in
24 allowing Larry Friedman this one indiscretion. He
25 is aware that what he did was wrong and is against

1
2 the law, and he is totally contrite about this.

3 He is attempting to reestablish himself in
4 society and continue to benefit the community in
5 which he resides in.

6 He has a wife waiting for him in California
7 and they hope to start a family shortly.

8 We respectfully ask this Court to grant
9 Larry Friedman this one opportunity and give him
10 a suspended sentence.

11 THE COURT: Mr. Friedman, what would you like
12 to say?

13 THE DEFENDANT: I realize what I have done
14 is totally wrong and, needless to say, it won't
15 happen again. But I would like to take my place
16 in society where I should have been in the first
17 place, and just go on living and get back to my
18 wife.

19 I have been doing some sort of community
20 work to sort of pay my own sort of penance, and
21 I just know that what I did was wrong and I should
22 hang around with different people.

23 Lately I have been working every day for
24 the last four months, and at a field different
25 from what I thought I could make a living at.

A 104

1
2 And it's working out nicely.

3 THE COURT: Anything further?

4 THE DEFENDANT: No, sir, your Honor.

5 THE COURT: All right.

6 The Court has taken into consideration the
7 fact that this defendant pleaded guilty; this
8 defendant has cooperated with the Government
9 agents since his voluntary surrender. He has also
10 agreed to provide testimony when needed.

11 The defendant was a principal in the early
12 ventures of the group engaged in the illegal
13 smuggling of hashish. However, his activities
14 became more limited as time progressed.

15 The activities of this group involved the
16 following seven operations: In February of 1972,
17 44 pounds of hashish were brought in. In November
18 of 1972, 400 pounds of hashish were brought in.
19 In January of 1974, 330 pounds of hashish were
20 brought in. In September of 1972, 330 pounds were
21 brought in. In December 1972, 450 pounds. In
22 January of 1975, 800 pounds. The instant offense
23 which is before the Court is March of 1976, and
24 at that time it was 717 pounds.

25 The defendant stated that approximately five

A 105

1
2 years ago he began his initial involvement in
3 the hashish operations scheme. This defendant
4 had one prior conviction for breach of peace in
5 Vermont.

6 Based on his own statements to agents,
7 this defendant realized profits exceeding \$100,000
8 from his overall participation in this scheme.

9 It is adjudged that the defendant is
10 hereby committed to the custody of the Attorney
11 General, or his authorized representative, for
12 imprisonment for a term of two years, plus a
13 special parole term of five years, and a fine of
14 \$10,000.

15 MR. ZEICHNER: Your Honor, may we request
16 a stay for a period of thirty days so Mr. Friedman
17 can get his things together in California?

18 THE COURT: Surely.

19 Would he want to surrender to the United
20 States Marshal in California?

21 MR. ZEICHNER: Yes, your Honor.

22 THE COURT: All right.

23 Stay of execution to Thursday, June 30th.

24 Is that all right?

25 THE DEFENDANT: I guess so.

A 106

1 THE COURT: All right.

2 Stay of execution to June 30th, 1977.

3 Now, what city are you in?

4 THE DEFENDANT: Petaluma, California.

5 THE COURT: Is that near San Francisco?

6 THE DEFENDANT: Forty miles.

7 THE COURT: All right.

8 The defendant will surrender to the United
9 States Marshal in the United States Courthouse
10 in San Francisco, California, on June 30th, 1977.

11 MR. PATTISON: Your Honor, the defendant
12 at this time also has to be printed and photographed
13 here, which has not been done as of yet.

14 THE COURT: That must be done right here.
15 He must go down before he leaves and he is to be
16 printed and photographed by the United States
17 Marshal here in this building before he leaves
18 at this time.

19 THE MARSHAL: Yes, your Honor. And it's
20 in preparation for that surrender in San Francisco.

21 MR. PATTISON: Very well, your Honor.

22 THE COURT: Thank you.

23 You will go with the United States Marshal,
24 Mr. Friedman.
25

- - -

United States Court of Appeals
FOR THE SECOND CIRCUIT

No. 77-1277

UNITED STATES OF AMERICA
APPELLEE

v.
BERNARD BERMAN,
DEFENDANT-APPELLANT

AFFIDAVIT OF SERVICE BY MAIL

ALBERT SENSALE, being duly sworn, deposes and says, that deponent is not a party to the action, is over 18 years of age and resides at 914 BROOKLYN AVE
BROOKLYN, N.Y.

That on the 26th day of SEPTEMBER, 1977, deponent served the within BRIEF AND APPENDIX FOR APPELLANT upon DAVID TRAGER, UNITED STATES ATTORNEY FOR THE EASTERN DISTRICT OF NEW YORK
225 CADMAN PLAZA, BROOKLYN, N.Y. 11201

Attorney(s) for the APPELLEE in the action, the address designated by said attorney(s) for the purpose by depositing a true copy of same enclosed in a postpaid properly addressed wrapper, in a post office official depository under the exclusive care and custody of the United States Post Office department within the State of New York.

Albert Sensale

Sworn to before me,

This 26th day of SEPTEMBER 1977

Edward A. Quimby

EDWARD A. QUIMBY
Notary Public, State of New York
No. 24-3183500
Qualified in Kings County
Commission Expires March 30, 1979